

Town Board Minutes

October 17, 2016

Meeting No. 31

A Regular Meeting of the Town Board of the Town of Lancaster, Erie County, New York, was held at the Town Hall at 21 Central Avenue, Lancaster, New York on the 17th day of October 2016 at 7:00 P.M. and there were

PRESENT: JOHN ABRAHAM, COUNCIL MEMBER
DAWN GACZEWSKI, COUNCIL MEMBER
RONALD RUFFINO, COUNCIL MEMBER
MATTHEW WALTER, COUNCIL MEMBER
JOHANNA COLEMAN, SUPERVISOR

ABSENT: NONE

ALSO PRESENT: DIANE TERRANOVA, TOWN CLERK
KEVIN LOFTUS, TOWN ATTORNEY
MATTHEW FISCHIONE, CODE ENFORCEMENT OFFICER
MARK LUBERA, PARK CREW CHIEF
DANIEL AMATURA, HIGHWAY SUPERINTENDENT
ROBERT HARRIS, ENGINEER, WM. SCHUTT & ASSOCIATES
JOHN TROJANOWSKY, EXEC. DIRECTOR, YOUTH BUREAU
MARCO LAURIENZO, POLICE CAPTAIN

EXECUTIVE SESSION:

AT 7:45 P.M., UPON A MOTION DULY MADE BY COUNCIL MEMBER ABRAHAM, SECONDED BY COUNCIL MEMBER WALTER AND CARRIED, the Town Board entered into Executive Session to deliberate on the announced purpose of discussing a contractual matter.

At 8:57 P.M., the Town Board reconvened with all members present. The Town Clerk reported that no official actions were taken by the Town Board in Executive Session.

PERSONS ADDRESSING TOWN BOARD:

Braun, Leza, spoke to the Town Board on the following matter:

- Comments regarding employee benefits for non-union employees.

Chowaniec, Lee, spoke to the Town Board on the following matters:

- Questions regarding the fund balance and the Police fund.
- Comments about overriding the Tax Cap.

Ruffino, Ronald, spoke to the Town Board on the following matter:

- Submitted changes to the Preliminary Budget and spoke to the changes.

PUBLIC HEARING SCHEDULED FOR 7:15 P.M.: No. 1 Mohawk Place
Telecommunications Tower

ON MOTION BY COUNCIL MEMBER ABRAHAM, SECONDED BY COUNCIL MEMBER WALTER AND CARRIED, the public hearing was opened.

At 7:15 P.M., the Town Board held a Public Hearing to hear all interested persons upon a Mohawk Place Telecommunications Tower matter.

The affidavits of publication and posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

NAME OF PERSONS ADDRESSING THE BOARD ON THIS SUBJECT	Proponent/ Opponent/ Comments/Question
Corey Auerbach, Esq. Representing Petitioner	Proponent
Don Carpenter	Proponent

ON MOTION BY COUNCIL MEMBER ABRAHAM, SECONDED BY COUNCIL MEMBER GACZEWSKI AND CARRIED, the public hearing was closed at 7:31P.M.

Decision on this matter was reserved.

October 17, 2016

PUBLIC HEARING SCHEDULED FOR 7:15 P.M.: No. 2 V & T Ordinance Stop Intersections; Non-Intersection Stops; Yield Intersection Deer Cross Subdivision

ON MOTION BY COUNCIL MEMBER ABRAHAM, SECONDED BY COUNCIL MEMBER GACZEWSKI AND CARRIED, the public hearing was opened.

At 7:31 P.M., the Town Board held a Public Hearing to hear all interested persons upon a V & T Ordinance Stop Intersections; Non-Intersections Stops; Yield Intersections Deer Cross Subdivision matter.

The affidavits of publication and posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

NAME OF PERSONS ADDRESSING THE BOARD ON THIS SUBJECT	Proponent/ Opponent/ Comments/Question
Hank Levan	Proponent

ON MOTION BY COUNCIL MEMBER WALTER, SECONDED BY COUNCIL MEMBER RUFFINO AND CARRIED, the public hearing was closed at 7:34 P.M.

Decision on this matter was reserved.

October 17, 2016

PUBLIC HEARING SCHEDULED FOR 7:15 P.M.: No. 3 V & T Ordinance Parking, Standing, and Stopping Deer Cross Subdivision

ON MOTION BY COUNCIL MEMBER WALTER, SECONDED BY COUNCIL MEMBER ABRAHAM AND CARRIED, the public hearing was opened.

At 7:34 P.M., the Town Board held a Public Hearing to hear all interested persons upon a V & T Ordinance Parking, Standing & Stopping Deer Cross Subdivision matter.

The affidavits of publication and posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

NAME OF PERSONS ADDRESSING THE BOARD ON THIS SUBJECT	Proponent/ Opponent/ Comments/Question
Carl Anderson	Comments/Questions
Hank Levan	Comments

ON MOTION BY COUNCIL MEMBER ABRAHAM, SECONDED BY COUNCIL MEMBER GACZEWSKI AND CARRIED, the public hearing was closed at 7:44 P.M.

Decision on this matter was reserved.

October 17, 2016

PRESENTATION OF PREFILED RESOLUTIONS:

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR COLEMAN, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER RUFFINO, TO WIT:

RESOLVED, that the minutes of the Joint Meeting of the Town Board and the Planning Board held October 3, 2016 and the Regular Meeting of the Town Board held October 3, 2016 be and are hereby approved.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

File: RMIN (P1)

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR COLEMAN, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER ABRAHAM, TO WIT:

RESOLVED, that the following Audited Claims be and are hereby ordered
paid from their respective accounts as per abstract to be filed in the Office of the Town Clerk
by the Assistant to the Supervisor, to wit:

Claim No. 45998 to Claim No. 46203 Inclusive

Total amount hereby authorized to be paid: \$ 1,495,810.50

The question of the foregoing resolution was duly put to a vote on roll call
which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016
File: Rclaims

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER ABRAHAM, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER GACZEWSKI, TO WIT:

RESOLVED that the following Building Permit applications be and are hereby reaffirmed:

CODES:

- (SW) = Sidewalks as required by Chapter 12-1B of the Code of the Town of Lancaster are waived for this permit.
(CSW) = Conditional sidewalk waiver
(V/L) = Village of Lancaster

NEW PERMITS:

Pmt #	SW	Applicant Name	Address	STRUCTURE	Village
25953		RJF Development JV	15 Middlebury Ln	Er. Dwlg.-Sin.	
25954		RJF Development JV	696 Pleasant View Dr	Er. Dwlg.-Sin.	
25955		Paul & Kelly Schintzius	5 Sawgrass Ln	Er. Shed	
25956		John J.Tamrowski	30 Livingston St	Er. Shed	(V/L)
25957		Switala's Siding Cedar Inc.	5 Petersbrook Cir	Re-Roof	
25958		Stan & Susie Dobbs	5172 William St	Er. Shed	
25959		Antoni Rabcewicz	0 Ransom Rd	Dem. Bldg	
25960		Majestic Pools Inc.	19 Stream View Ln	Er. Fence	
25961		Bill Griffin	19 Stream View Ln	Er. Pool-In Grnd	
25962		Timothy Sullivan	54 C St	Er. Shed	
25963		Robert Giorgini	29 Briarwood Dr	Re-Roof	(V/L)
25964		Michael Jaskula	9 Michael Anthony Ln	Re-Roof	
25965		Christopher Scozzaro	30 Willow Ridge Ln	Re-Roof	
25966		Building Solutions	330 Aurora St	Re-Roof	(V/L)
25967		David Satola	120 Iroquois Ave	Re-Roof	
25968		A.J. Caputa	3 Bennington Ln	Er. Fence	
25969		Roger Gee	117 Stutzman Rd	Inst. Generator	
25970		Justin & Melinda Mullen	61S Miller Ave	Er. Shed	
25971		Robert Winkler	22 Ashley Dr	Re-Roof	(V/L)
25972		Brett Begley	35 Northwood Dr	Inst. Generator	
25973		Wendy Watts	752 Aurora St	Er. Shed	
25974		Town of Lancaster IDA	140 Rotech Dr	Er. Comm. Bldg.	
25975		Rudolf & Kim Bucci	7 Sugarbush Ln	Inst. Generator	
25977		Jerome Kretzman	248 Pleasant View Dr	Re-Roof	
25978		Kristin Ball	65 Oxford Ave	Er. Fence	(V/L)
25979		Jesse & Jill Grey	3 Sagebrush Ln	Er. Fence	
25980		Jesse & Jill Grey	3 Sagebrush Ln	Er. Pool-In Grnd	
25981		Marrano/Marc Equity Corp.	10 Brockton Dr	Er. Townhouses	
25982		Marrano/Marc Equity Corp.	12 Brockton Dr	Er. Townhouses	
25983		Marrano/Marc Equity Corp.	14 Brockton Dr	Er. Townhouses	
25984		Marrano/Marc Equity Corp.	16 Brockton Dr	Er. Townhouses	
25985		Marrano/Marc Equity Corp.	18 Brockton Dr	Er. Townhouses	
25986		Marrano/Marc Equity Corp.	20 Brockton Dr	Er. Townhouses	
25987		Marrano/Marc Equity Corp.	49 Brockton Dr	Er. Townhouses	
25988		Marrano/Marc Equity Corp.	51 Brockton Dr	Er. Townhouses	
25989		Marrano/Marc Equity Corp.	53 Brockton Dr	Er. Townhouses	
25990		Marrano/Marc Equity Corp.	55 Brockton Dr	Er. Townhouses	
25991		Marrano/Marc Equity Corp.	57 Brockton Dr	Er. Townhouses	
25992		Marrano/Marc Equity Corp.	59 Brockton Dr	Er. Townhouses	
25993		O'Connell Electric	20 Lancaster Pkwy	Er. Comm. Bldg.	
25994		William & Nancy Herrmann	216 Nathan's Trl	Re-Roof	
25995		H. Sifkovits & N. Poleon	14 Field Ave	Re-Roof	(V/L)
25996		Federal National Mortg Assoc.	90 Court St	Re-Roof	(V/L)
25997		Vastola Heating & Cooling LLC	10 Nichter Rd	Inst. Generator	
25998		Timothy Burns	4 Jonquille Ct	Er. Fence	
25999		Kenneth & Carol Majka	15 Old Orchard Comm	Re-Roof	
26000		CMK Builders of Alden	80 Nichter Rd	Er. Dwlg.-Sin.	
26001		Marrano/Marc Equity Corp.	29 Brockton Dr	Er. Townhouses	
26002		Marrano/Marc Equity Corp.	31 Brockton Dr	Er. Townhouses	
26003		Marrano/Marc Equity Corp.	33 Brockton Dr	Er. Townhouses	
26004		DGA Builders LLC	48 Freeman Dr	Er. Comm. Bldg.	
26005		Marrano/Marc Equity Corp.	35 Brockton Dr	Er. Townhouses	
26006		Marrano/Marc Equity	37 Brockton Dr	Er. Townhouses	
26007		Ashley Breier	62 Holland Ave	Er. Res. Add.	(V/L)

26008	Marrano/Marc Equity	39 Brockton Dr	Er. Townhouses	
26009	Scot & Kim Surovich	16 Middlebury Ln	Er. Pool-Abv Grnd	
26010	Thomas & Kathleen Caros	6 Old Orchard Comm	Er. Res. Add.	
26011	Lebert J. Puma	38 Tranquility Trl	Er. Deck	
26012	Marrano/Marc Equity Corp.	9 Brockton Dr	Er. Townhouses	
26013	Marrano/Marc Equity Corp.	11 Brockton Dr	Er. Townhouses	
26014	Marrano/Marc Equity Corp.	13 Brockton Dr	Er. Townhouses	
26015	Marrano/Marc Equity Corp.	15 Brockton Dr	Er. Townhouses	
26016	Arndt Family Trust	97 Albert Dr	Er. Fence	(V/L)
26017	Marrano/Marc Equity Corp.	17 Brockton Dr	Er. Townhouses	
26018	Marrano/Marc Equity Corp.	19 Brockton Dr	Er. Townhouses	
26019	Marrano/Marc Equity Corp.	2 Denton Dr	Er. Townhouses	
26020	Marrano/Marc Equity Corp.	4 Denton Dr	Er. Townhouses	
26021	Marrano/Marc Equity Corp.	6 Denton Dr	Er. Townhouses	
26022	Marrano/Marc Equity Corp.	8 Denton Dr	Er. Townhouses	
26023	Marrano/Marc Equity Corp.	10 Denton Dr	Er. Townhouses	
26024	Marrano/Marc Equity Corp.	12 Denton Dr	Er. Townhouses	
26025	James C. Takacs	1 Alyssum Ct	Re-Roof	
26026	D Allen & Son Contracting Inc.	522 Harris Hill Rd	Re-Roof	
26027	First Buffalo Total Basement	44 Middlebury Ln	Er. Res. Alt.	
26028	Seibold Construction Inc.	31 Creekwood Dr	Re-Roof	
26029	Eric Panzica	1 Beatrix Cir	Er. Fence	
26030	Gary D. Fuller	305 Enchanted Forest N	Re-Roof	
26031	St. Basil Ukrainian Greek	3657 Walden Ave	Er. Sign – Temp	(V/L)
26032	Sturm Roofing LLC	7 Devonshire Ln	Re-Roof	
26033	Building Solutions	9 Southwest Pky	Re-Roof	(V/L)
26034	Fairway Hills Development	38 Crabapple Ln	Er. Dwlg.-Sin.	
26035	City Fence Inc.	40 Tranquility Trl	Er. Fence	
26036	Colley's Pool Sales Inc.	40 Tranquility Trl	Er. Pool-In Grnd	
26037	Transit Road Aparatments LLC	4845 Transit Rd	Er. Sign - Wall	
26038	Transit Road Apartments LLC	4845 Transit Rd	Er. Sign - Wall	
26039	Transit Road Apartments LLC	4845 Transit Rd	Er. Sign - Wall	
26040	Transit Road Apartments LLC	4845 Transit Rd	Er. Sign - Wall	
26041	Len Jankiewicz	3 Lakeside Cres	Er. Res. Add.	(V/L)
26042	Norampac Industries Inc.	4444 Walden Ave	Er. Sign - Wall	
26043	Elmbrook Builders Inc.	432 Lake Ave	Er. Res. Add.	
26044	Barbara Cleaveland	3922 Bowen Rd	Er. Res. Add.	
26045	Star Construction	8 Walnut Creek Trl	Er. Shed	
26046	Town of Lancaster IDA	1900 Commerce Pkwy	Re-Roof	(V/L)
26047	Brian & Cindy Radzwill	34 Roosevelt Ave	Re-Roof	(V/L)
26048	Iroquois Fence Inc.	122S Irwinwood Rd	Er. Fence	(V/L)
26049	Gilbert & Deborah Sainz	247 Enchanted Forest N	Re-Roof	
26050	Russell Hamlin	134 Stony Rd	Er. Deck	
26051	Jason Obstein	134 Belmont Ave	Er. Fence	

RESOLVED, that the Building Permit Applications herein coded (SW) for sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance requirement for sidewalks, and

BE IT FURTHER

RESOLVED, that the Building Permit Applications herein coded (CSW) for conditional sidewalk waiver be and are hereby reaffirmed with a waiver of the Town Ordinance required for sidewalks, however, the waiver is granted upon the expressed condition that the Town of Lancaster, at any future date, reserves the right to order sidewalk installation at the expense of the property owner.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR COLEMAN, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER WALTER, TO WIT:

WHEREAS, the Twin District Volunteer Fire Company, Inc., by letter dated September 25, 2016, has requested the deletion of two members from the active roster of said fire association,

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby deletes from the membership of the Twin District Volunteer Fire Company, the following individuals:

DELETIONS:

Scott Simon
Nicole Simon

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

File: RFIRE (P6)

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR COLEMAN, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER ABRAHAM, TO WIT:

WHEREAS, the Town Board of the Town of Lancaster (“Town Board”) has considered and evaluated a proposed Local Law which amends in part the Town of Lancaster Code, Chapter 40, Taxation, by enacting a new Article VII. Tax Levy Limit Override, which allows a Tax Levy Limit Override for fiscal year 2017 established in General Municipal Law § 3-c; and

WHEREAS, the Town Board called for, noticed, and held a public hearing on the proposed Local Law on October 3, 2016, where all interested parties were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law or any part thereof, and

WHEREAS, the Town Board, acting as Lead Agency under the State Environmental Quality Review Act (“SEQRA”) has determined the action is a Type II action under SEQR, and

WHEREAS, the Town Board of the Town of Lancaster after due review and deliberation finds it in the best interest of the Town to adopt said Local Law.

NOW, THEREFORE,
BE IT RESOLVED by the Town Board of the Town of Lancaster that:

- 1. The attached Local Law No. 5 of 2016 is hereby adopted which allows a Tax Levy Limit Override for fiscal year 2017 established in General Municipal Law § 3-c.
- 2. The Local Law shall be effective upon its filing with the Secretary of State pursuant to the Municipal Home Rule Law.

The question of the adoption of the foregoing resolution was duly put to vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	NO
COUNCIL MEMBER WALTER	VOTED	NO
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

**LEGAL NOTICE-
NOTICE OF ADOPTION
LOCAL LAW NO. 5 OF THE YEAR 2016
TOWN OF LANCASTER**

PLEASE TAKE NOTICE that there has been adopted by the Town Board of the Town of Lancaster, Erie County, New York, on October 17, 2016 Local Law No. 5 of the Year 2016, which amends the Town of Lancaster Code, Chapter 40, Taxation, by enacting Article VII. Tax Levy Limit Override, which is on file for review in the Town Hall and on the Town of Lancaster's website, <http://www.lancasterny.gov>.

**TOWN BOARD OF THE
TOWN OF LANCASTER**

**By: DIANE M. TERRANOVA
Town Clerk**

October 20, 2016

**Town of Lancaster
Local Law No. 5 of 2016**

A Local Law Amending the Town of Lancaster Code to Amend Chapter 40. Taxation and Enact Article VII. Tax Levy Limit Override.

Be it hereby enacted by the Town Board of the Town of Lancaster as follows:

Section 1: Chapter 40. Taxation. of the Town of Lancaster Town Code, is hereby amended to read in its entirety the enactment of new Article VII as follows:

Chapter 40– Taxation.

Article VII. Tax Levy Limit Override.

§40-35. Legislative Intent.

It is the intent of this local law to allow the Town of Lancaster to adopt a budget for the fiscal year commencing January 1, 2017 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

§40-36. Authority.

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

§40-37. Tax Levy Limit Override.

The Town Board of the Town of Lancaster, County of Erie, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2017 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

§40-38. Severability.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgement shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgement or order shall be rendered.

§40-39. Effective Date.

This local law shall take effect immediately upon filing and publication as required by law.

Section 2: Severability. Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

Section 3: Effective Date. This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER ABRAHAM, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER WALTER, TO WIT:

WHEREAS, a Public Hearing was held on the 3rd day of October, 2016 for the purpose of amending Chapter 46 -Vehicle and Traffic Ordinance of the Code of the Town of Lancaster and persons for and against such amendment have had an opportunity to be heard, and

WHEREAS, a Notice of said Public Hearing was duly published and posted;

**NOW, THEREFORE, BE IT
RESOLVED**, as follows:

- 1. That Chapter 46, Vehicle and Traffic Ordinance of the Code of the Town of Lancaster be amended in the form attached hereto and made a part hereof;
- 2. That said amendment be added in the minutes of the meeting of the Town Board of the Town of Lancaster held on October 17, 2016;
- 3. That a Certified Copy thereof be published in an official newspaper of general circulation on October 20, 2016;
- 4. That a Certified Copy of the amendment be posted on the Town Bulletin Board:
- 5. That Affidavits of Publication and Posting be filed with the Town Clerk;
- 6. That the Highway Superintendent take whatever action is necessary to install signs in accordance with the Law;
- 7. That a Certified Copy of this resolution be sent to the Lancaster Central School District Department of Transportation.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

**LEGAL NOTICE
NOTICE OF ADOPTION
AMENDMENT TO VEHICLE & TRAFFIC ORDINANCE
TOWN OF LANCASTER, COUNTY OF ERIE, STATE OF NEW YORK**

NOTICE IS HEREBY GIVEN that the Vehicle and Traffic Ordinance of the Town of Lancaster, Erie County, New York, designated as Chapter 46 of the Code of the Town of Lancaster is hereby amended as follows:

CHAPTER 46

ARTICLE X – Parking, Standing, and Stopping

46-14. Parking time limited in designated locations; is hereby amended by adding thereto the following:

D. The parking of a vehicle is hereby prohibited in the following locations between the hours of 6:00 a.m. and 5:00 p.m. on school days:

(1) Hidden Pines Subdivision

(a) On both sides of Silent Meadow Lane from lot number 19 to the dead end.

October 20, 2016

**STATE OF NEW YORK :
COUNTY OF ERIE :
OF LANCASTER :**

THIS IS TO CERTIFY that I, **DIANE M. TERRANOVA**, Town Clerk of the Town of Lancaster in the said Town of Lancaster in the said County of Erie, have compared the foregoing copy of an amendment to the Vehicle and Traffic Ordinance of the Town of Lancaster, with the original thereof filed in my office at Lancaster, New York on the 17^h day of October, 2016 and that the same is a true and correct copy of said original, and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said Town, this 17th day of October, 2016.

Diane M. Terranova, Town Clerk

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER ABRAHAM, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER GACZEWSKI, TO WIT:

WHEREAS, the Town Board is considering the construction of a one-story 18,888 Sft. light manufacturing building addition submitted by Apple Rubber Products, Inc. on a +/- 33.3643 acre parcel located at 204 Cemetery Road, in the Town of Lancaster, Erie County, New York, and

WHEREAS, the Town of Lancaster Municipal Review Committee has reviewed the environmental impact of this construction project pursuant to SEQR regulations at their meeting on October 3, 2016 and recommended that a Negative Declaration be issued, and

WHEREAS, the Town Board has duly considered the plans for the project, using the Long Environmental Assessment Form, the criteria for determining significance set forth in 6 N.Y.C.R.R. § 617.7(c) of the State Environmental Quality Review Act (“SEQRA”) regulations, and such other information deemed appropriate, including the recommendation of the Municipal Review Committee; and

WHEREAS, the Town Board has identified the relevant areas of environmental concern, has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination; and

WHEREAS, the proposed action has been labeled a “Type I” action under SEQRA.

NOW, THEREFORE,
BE IT RESOLVED by the Town Board of the Town of Lancaster that:

1. Based upon the Town Board’s thorough and careful review of the proposed construction described as a proposed light manufacturing building. One story, 18,888 square feet with associated access drives and parking on a +/- 33.3643 acre parcel located at 204 Cemetery Road, will not result in any significant environmental impacts and hereby issues a negative declaration pursuant to SEQRA for the reasons stated therein.
2. The Town Clerk shall file a copy of the Negative Declaration in the file for the Project.
3. The Town Attorney's Office shall prepare and file a Notice of Determination of Non-Significance with the petitioner and with all required New York State and Erie County agencies, filing a copy of the letter of transmittal.
4. This resolution is effective immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

NEGATIVE DECLARATION
Determination of Non-Significance

Town of Lancaster Town Board

Dated: October 17, 2016

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Lancaster Town Board (the “Town Board”), has reviewed the proposed construction of a one-story 18,888 Sft. light manufacturing building addition submitted by Apple Rubber Products, Inc., on a +/- 33.3643 acre parcel. The Town Board has determined the Project will not have a significant adverse environmental impact and that a Draft Environmental Impact Statement will not be prepared.

Name of Action: Apple Rubber Expansion

Location of Action: 204 Cemetery Road (SBL No. 105.00-1-25.1 &105.00-1-25.) Lancaster, New York 14086, Erie County.

SEQR Status: Type I Action.

Description of Action: The construction of a proposed light manufacturing building. One story, 18,888 square feet with associated access drives and parking.

Reasons Supporting this Determination: Potential environmental impacts associated with the Project were identified in the Environmental Assessment Form. The Town analyzed the project under the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3). As indicated below based on each criterion specified in 6 NYCRR § 617.7(c)(1), the Project will not have a significant adverse impact on the environment.

1. **Impact on land - No impact.**
2. **Impact on Geological Features – No impact.**
3. **Impacts on Surface Water – Small impact.**
 - The proposed action involves construction within an adjoining wetland.
4. **Impact on Groundwater – No impact.**
5. **Impact on Flooding – No impact.**
6. **Impact on Air – No impact.**
7. **Impact on Plants and Animals – No impact.**
8. **Impact on Agricultural Resources – No impact.**
9. **Impact on Aesthetic Resources – No impact.**
10. **Impact on Historic and Archeological Resources – No impact.**

- 11. **Impact on Open Space and Recreation – No impact.**
- 12. **Impact on Critical Environmental Areas – N/A**
 - The Town of Lancaster has not established a Critical Environmental Area (CEA).
- 13. **Impact on Transportation – No impact.**
- 14. **Impact on Energy – No impact.**
- 15. **Impact on Noise, Odor and Light – No impact.**
- 16. **Impact on Human Health – No impact.**
- 17. **Consistency with Community Plans – No impact**
- 18. **Consistency with Community Character – No impact.**

For Further Information:

Contact Person:	Kevin E. Loftus, Town Attorney
Address:	Town of Lancaster 21 Central Avenue Lancaster, New York 14086
Telephone Number:	(716) 684-3342

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER WALTER, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER ABRAHAM, TO WIT:

NOW THEREFORE,
BE IT RESOLVED, the Town Board of the Town of Lancaster (a) hereby approves the settlement agreement between the Town of Lancaster and The Marrano/Marc Equity Corporation, Central Square Villas Condominium Association, Inc., Pleasant Meadows Associates, LLC and Pleasant Meadows Homeowners Association. LLC, pursuant to the terms and conditions of the agreement and (b) hereby authorizes the Town Supervisor, to execute said agreement on behalf of the Town.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER GACZEWSKI, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER ABRAHAM, TO WIT:

WHEREAS, the Town of Lancaster’s Highway Department has identified a need to purchase two new (2) 2017 ODB Truck Mounted Vacuum Debris Collectors model SCL800SM-25 (VIN Numbers 1FVACYCYXHHHY4588 & 1FVACYCY1HHHY4589), and

WHEREAS, the above-referenced debris collectors are available through the National Joint Powers Alliance, NYS Contract Group # 40625, Award # PGB 22792, from their vendor Old Dominion Brush Co., Inc. (contract #060612-ODB), who contracts with Excel Truck Group for specialty truck chassis, and

WHEREAS, this purchase is made under the Best Value Procurement Policy as defined in §163 of the New York State Finance Law which eliminates the need for competitive bidding pursuant to §103 of General Municipal Law, and

WHEREAS, the Town Board deems it in the public interest to make this purchase of two (2) 2017 ODB Truck Mounted Vacuum Debris Collectors model SCL800SM-25 from Excel Truck Group under contract with Old Dominion Brush Co., Inc. for a total cost of \$339,814.10 per the proposal dated February 3, 2016.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Lancaster hereby approves the purchase of two (2) 2017 ODB Truck Mounted Vacuum Debris Collectors model SCL800SM-25 from Excel Truck Group, 901 W. Hundred Road, Chester, VA 23836, through their contract with Old Dominion Brush Co., Inc., from the National Joint Powers Alliance, NYS Contract Group # 40625, Award # PGB 22792, at a cost of \$339,814.10 per the proposal dated February 3, 2016, which sum shall be paid for with funds available from the May 18, 2015 Highway Bond.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR COLEMAN, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER WALTER, TO WIT:

WHEREAS, at a meeting of the Lancaster Town Board held on October 17, 2016, the Board authorized Johanna Coleman, Supervisor, to sign, submit and execute contracts with the Erie County Community Development Block Grant (ECCDBG) program for the following projects upon approval of ECCDBG:

- 1. ADA Accessibility Project

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR COLEMAN, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER ABRAHAM, TO WIT:

WHEREAS, the Town Board, on behalf of all the Special Districts and Special Improvement Districts, upon which the cost of maintenance is required by law to be apportioned and assessed in proportion to the amount of the benefits conferred, has duly prepared detailed estimates in writing of the anticipated revenues and expenditures for such districts to determine the amount of money required to meet the expense of maintaining same, and

WHEREAS, the Town Board has assessed the amount of said estimates on several lots against which the expense of the improvement was charged in proportion to the amount of benefit conferred, and

WHEREAS, Assessment Rolls were duly prepared according to law and said assessment rolls were duly filed in the Office of the Town Clerk.

**NOW, THEREFORE, BE IT
RESOLVED**, as follows:

1. That a Public Hearing is hereby called and shall be held on the 1st day of November, 2016, at 5:30 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, at which time and place this Town Board will meet to consider the aforementioned Special Districts Budget for the Year 2017, and to hear all persons interested in the subject matter thereof, and concerning the same, and
2. That a Legal Notice of said Public Hearing be published in the Lancaster Bee on October 20, 2016, which Notice shall be in the form attached hereto and made a part hereof and which date of publication is not less than ten (10) nor more than twenty (20) days prior to the public hearing.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	NO
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

**LEGAL NOTICE
TOWN OF LANCASTER
NOTICE OF PUBLIC HEARING
UPON THE 2017 SPECIAL DISTRICTS BUDGET**

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Lancaster, New York, has completed its estimates and assessment roll relating to Special Districts, spreading costs on a benefit basis, and has filed same with the Town Clerk for the following districts for the year 2017:

Consolidated Water District

Consolidated Lighting District Number 1

Fire Protection District

Refuse and Garbage District

and,

FURTHER NOTICE IS GIVEN, that a Public Hearing on such estimates and Assessment Roll will be held on November 1, 2016 at 5:30 o'clock P.M., Local Time, at the Town Hall, 21 Central Avenue, Lancaster, New York, at which time and place the Town Board will meet to hear and consider any persons interested in the subject matter thereof.

**BY ORDER OF THE TOWN BOARD OF THE
TOWN OF LANCASTER**

BY: DIANE TERRANOVA, Town Clerk

October 20, 2016

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR COLEMAN, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER ABRAHAM, TO WIT:

WHEREAS, Johanna M. Coleman, Budget Officer of the Town of Lancaster, on September 30, 2016, duly filed the Tentative Budget of said Town for the fiscal year beginning January 1, 2017, with the Town Clerk of said Town.

NOW, THEREFORE, BE IT

RESOLVED, that the said Tentative Budget, without modifications, is hereby approved and shall become the Preliminary Budget of the Town of Lancaster for the fiscal year beginning January 1, 2017, and

BE IT FURTHER

RESOLVED, that said Preliminary Budget shall be made available by the Town Clerk to the public for inspection during the regular business hours of the Office of the Town Clerk, and

BE IT FURTHER

RESOLVED, that a Public Hearing on the Preliminary Budget of the Town of Lancaster for the year 2017, be held by this Town Board at the Town Hall, 21 Central Avenue, Lancaster, New York on the 1st day of November 2016, at 5:30 o'clock P.M., Local Time, and

BE IT FURTHER

RESOLVED, that a Legal Notice of said Public Hearing upon the 2017 Preliminary Budget, as required by Section 108 of the Town Law of the State of New York, be published in the Lancaster Bee, on October 20, 2016 which Notice shall be in the form attached hereto and made a part hereof and which date of publication is not less than five (5) days prior to the public hearing.

The question of the adoption of the following resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	NO
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

**LEGAL NOTICE
TOWN OF LANCASTER
NOTICE OF PUBLIC HEARING
ON THE 2017 PRELIMINARY BUDGET**

NOTICE IS HEREBY GIVEN, that the Preliminary Budget of the Town of Lancaster, for the fiscal year beginning January 1, 2017, has been filed in the Office of the Town Clerk, 21 Central Avenue, Lancaster, New York, where it is available for inspection by any interested persons during office hours.

FURTHER NOTICE IS GIVEN, that a Public Hearing on the Preliminary Budget of the Town of Lancaster for the year 2017, be held by this Town Board at the Town Hall, 21 Central Avenue, Lancaster, New York on the 1st day of November 2016, at 5:30 o'clock P.M., Local Time, and at such hearing, any person may be heard in favor of or against the Preliminary Budget as compiled, or for or against any item or items therein contained.

Pursuant to Section 108 of the Town Law, the proposed annual salaries of the following Town Officers are specified as follows:

Supervisor - as Supervisor	\$68,337
- as Budget Officer	\$0
Total	\$68,337
Council Member	\$19,354
Council Member	\$19,354
Council Member	\$19,354
Council Member	\$19,354
Town Justice	\$42,722
Town Justice	\$42,722
Town Clerk - as Town Clerk	\$72,568
- as Records Management Officer	\$6,666
- as Registrar of Vital Statistics	\$3,000
- as Clerk to Zoning Board of Appeals	\$3,458
Total	\$85,692
Superintendent of Highways	
- as Superintendent of Highways	\$71,183
- as Parks/Rec Oversight	\$5,000
- as Drainage Coordinator - P.T.	\$5,559
Total	\$81,742

BY ORDER OF THE TOWN BOARD OF THE
TOWN OF LANCASTER

BY: DIANE M. TERRANOVA, Town Clerk

October 20, 2016

THE FOLLOWING RESOLUTION WAS OFFERED
BY SUPERVISOR COLEMAN, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER WALTER, TO WIT:

WHEREAS, the Park Crew Chief of the Parks, Recreation and Forestry Department of the Town of Lancaster, by letters dated October 11, 2016, has recommended the appointment of the following individual(s) to the following part-time permanent position(s).

NOW, THEREFORE, BE IT

RESOLVED, that the following individual(s) are hereby appointed to the following part-time permanent position(s) in the Parks, Recreation and Forestry Department, working not more than nineteen and three-quarter hours per week, and that these being part-time position(s), provide no health insurance, sick days, vacations, or other fringe benefits not specifically mandated for part-time permanent employees:

<u>NAME</u>	<u>POSITION</u>	<u>PAY RATE PER HOUR</u>	<u>EFFECTIVE DATE</u>
Stefano Occhiuto Lancaster, NY	Laborer	\$12.00	October 18, 2016
Alan Friedrich Bowmansville, NY	Laborer	\$12.00	October 31, 2016
Justin Rybacki Lancaster, NY	Laborer	\$12.00	October 31, 2016

BE IT FURTHER,

RESOLVED, that the Supervisor of the Town of Lancaster shall be authorized to take all necessary action to implement the foregoing.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER GACZEWSKI, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER WALTER, TO WIT:

WHEREAS, DiDonato Associates, P.C., 689 Main Street, Buffalo, New York 14203 the engineer for the general design, construction administration and inspection phases for the Town of Lancaster’s Lincoln Street Culvert Project has submitted Change Order No. 1 in the amount of \$14, 343.00 to the Town Board for their approval, based on the description of work previously provided to the Town Board;

**NOW, THEREFORE, BE IT
RESOLVED,** that the Town Board of the Town of Lancaster hereby approves Change Order No. 1 to **DiDonato Associates, P.C.,** with respect to the outlined descriptions provided to the Town Board:

DESCRIPTION OF CHANGE ORDER NO. 1:

Additional compensation for additional testing and resident services.

CHANGE ORDER NO. 1:

The original Contract Sum was	\$	88,962.00
The Contract Sum will be increased by this Change Order in the amount of....	\$	14,343.00
The new Contract Sum increased including this Change Order will be	\$	103, 305.00

**BE IT FURTHER
RESOLVED,** that the Supervisor be and is hereby authorized to execute this Change Order on behalf of the Town of Lancaster.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

PREFILED RESOLUTION NO. 15 – MEETING OF SEPTEMBER 17, 2016

15. Coleman/_____ Compensation & Benefits Adjustment To Non-Represented Full-Time Employees [Non-Represented Full-Time Employees]

This resolution was withdrawn by Supervisor for further study.

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER ABRAHAM, WHO
MOVED ITS ADOPTION, ECONDED BY
COUNCIL MEMBER GACZEWSKI, TO WIT:

WHEREAS, Paul Marinaccio, of PM Peppermint, Inc., has submitted a site plan prepared by **Glynn Geotechnical Engineering**, dated April 26, 2016 with a revision date of August 12, 2016 and received August 15, 2016 for the proposed construction of a 3,120 ± sq. ft. shredded topsoil storage facility to be located at 31 Peppermint Road (SBL No. 94.00-3-11.1), in the Town of Lancaster, and

WHEREAS, the site plan for this project was submitted to the Planning Board and was approved at their September 7, 2016 meeting, and

WHEREAS, the New York State Department of Environmental Conservation, acting as lead agency has completed an environmental review in conformance with SEQR (State Environmental Quality Review) regulations and on July 1, 2013 a Negative Declaration was issued;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Lancaster hereby approves the site plan submitted by **Paul Marinaccio**, of PM Peppermint, Inc., and prepared by **Glynn Geotechnical Engineering**, dated April 26, 2016 with a revision date of August 12, 2016 and received August 15, 2016 for the proposed construction of a 3,120 ± sq. ft. shredded topsoil storage facility to be located at 31 Peppermint Road (SBL No. 94.00-3-11.1), in the Town of Lancaster with the following conditions:

1. Conformance with all conditions stated in the Court Order issued by Hon. Mark J. Grisanti, A.J.S.C. (Index No. 808576/2016) herein attached and made part of this resolution.
2. Screening of the Property from the residences to the east shall be maintained by leaving existing trees and vegetation in place on a 300-foot by 300-foot square in the northeast corner of the parcel. No existing trees or other vegetation shall be removed except with an amendment to the site plan, following a demonstration that effective screening may be achieved through the installation of new screening measures to replace vegetation that is proposed to be removed.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

PM PEPPERMINT, INC.

Petitioner,

v.

Index No.: 808576/2016
Hon. Mark J. Grisanti, A.J.S.C.

MATTHEW FISCHIONE, TOWN OF LANCASTER
CODE ENFORCEMENT OFFICER,

Respondent.

CONSENT ORDER AND JUDGMENT

Petitioner PM PEPPERMINT, Inc. (the “Petitioner” or “PM”), Respondent MATTHEW FISCHIONE (“Fischione”), and the Town of Lancaster, New York (the “Town”) through their respective counsel, agree as follows, which agreement shall have the force and effect of an Order of the New York Supreme Court, Erie County:

WHEREAS, the Petitioner is the owner in fee simple of certain property located in the Town of Lancaster, County of Erie, State of New York, more particularly, +/- 47 acres of land at 31 Peppermint Road, having SBL No. 94.00-3-11.1 (the “Property”); and

WHEREAS, the Property is located within the Town of Lancaster’s Sand, Gravel and Aggregates (“SGA”) District; and

WHEREAS, the Petitioner has received a New York State Department of Environmental Conservation permit (permit number 9-1452-00028/00003) (the “Mining Permit”) to mine at the Property and has commenced activity pursuant to the Mining Permit; and

WHEREAS, the Petitioner has commenced a topsoil shredding operation at the Property; and

WHEREAS, the Petitioner has commenced with the erection of a tensioned membrane canopy (the "Canopy") at the Property; and

WHEREAS, as a result of the foregoing, the Town commenced enforcement action against Petitioner for violation of the Town of Lancaster Code; and

WHEREAS, pursuant to Section 50-26(1)(a) of the Town of Lancaster Zoning Code, "[e]xcavations as permitted and regulated by Chapter 18 of the Town of Lancaster Code" are permitted uses; and

WHEREAS, Fischione and the Town determined that pursuant to Chapter 18 of the Town of Lancaster Code, mining at the Property requires a special use permit from the Town Board of the Town of Lancaster, on an annual basis, which permit shall expire on January 1 of each year (Town of Lancaster Code § 18-29(A)) (a "Special Use Permit"); and

WHEREAS, it is the position of Petitioner that no Special Use Permit is required for mining at the Property; and

WHEREAS, pursuant to the Town of Lancaster Code, the topsoil shredding operation is specially permitted as a "use[] customarily incidental" to the excavation (Town of Lancaster Code § 50-26(B)(2)(a)); and

WHEREAS, Fischione and the Town have determined that the erection of the Canopy requires site plan review and approval ("Site Plan Approval") pursuant to Town of Lancaster Code § 50-43(A)(2)-(4); and

WHEREAS, it is the position of Petitioner that the erection of the Canopy does not require Site Plan Approval; and

WHEREAS, Fischione and the Town have determined that erection of the Canopy requires a building permit, pursuant to, among other provisions, Town of Lancaster Code Chapter 8 and the New York Uniform Fire Prevention and Building Code; and

WHEREAS, it is the position of Petitioner that no building permit is required for the erection of the Canopy; alternatively, it is the position of Petitioner that if a building permit is required, its issuance cannot be conditioned upon either the issuance of a Special Use Permit or upon Site Plan Approval; and

WHEREAS, Respondent Matthew Fischione, the Code Enforcement Officer for the Town of Lancaster, issued a stop work order with respect to the operations at the Property and the construction of the Canopy at the Property because no special use permit, site plan approval, or building permit had been received; and

WHEREAS, Petitioner submitted an application to the Town of Lancaster Zoning Board of Appeals (the "ZBA") seeking an interpretation that a Special Use Permit, Site Plan Approval, and building permit are not required (the "ZBA Appeal"); and

WHEREAS, Petitioner contended that the stay provided by Section 267-a(6) of the New York Town Law permitted continued construction of the Canopy pending the ZBA Appeal; and

WHEREAS, pursuant to Section 267-a(6) of the New York Town Law, Respondent Fischione issued a certification to the ZBA that the stay would cause imminent peril to life or property, rendering the stay inapplicable (the "Certification"); and

WHEREAS, Petitioner commenced this proceeding, seeking to annul the Certification;

NOW, it is hereby **ORDERED, ADJUDGED, AND DECREED** as follows:

1. The Verified Petition/Complaint is hereby dismissed, with prejudice, in its entirety.

2. Petitioner's ZBA Appeal is hereby withdrawn.

3. Petitioner has submitted applications seeking the Special Use Permit and Site Plan Approval. Upon receipt of notification from Respondent Fischione and/or the Town of any deficiencies in either or both applications, Petitioner shall promptly correct the same, such that said applications shall comply fully with the requirements of the Town of Lancaster Code. Petitioner shall further pay all required fees, as set forth in the Code and any applicable fee schedule. The Town of Lancaster, upon receipt of complete applications, shall process those applications in accordance with applicable law. Upon receipt of a Special Use Permit, annual reapplication is required pursuant to Chapter 18 of the Town of Lancaster Code.

4. Petitioner has submitted an application for a building permit for the Canopy. Said application is complete and Petitioner has paid all applicable fees therefor. Respondent Fischione shall process such application and, if the application and plans are in compliance with the Town of Lancaster Code and the New York Uniform Fire Prevention and Building Code, he shall issue a building permit while the applications for a special use permit and site plan review are pending. If such application is determined not to be in compliance with the Town of Lancaster Code and/or the New York Uniform Fire Prevention and Building Code, Petitioner shall immediately be notified. Upon receipt of a building permit, Petitioner may

proceed with construction of the Canopy while the applications for a special use permit and site plan review are pending, but it does so at its own risk, pending the Town's review of the Special Use Permit and Site Plan applications. If either the Special Use permit Application or the Site Plan Application is not approved (or is approved with modifications and/or conditions), Respondent Fischione and/or the Town shall have the right to revoke the building permit, and Petitioner shall have the right to oppose such revocation pursuant to applicable law.

5. Petitioner shall not withdraw its applications for a Special Use Permit and Site Plan Approval and continue operations at the Property. Any withdraw of Petitioner's applications or failure to comply with the Town's reasonable requests to process those applications requires operations at the Property to cease.

6. No mulching, composting, or solid waste disposal is permitted to occur at the Property. This limitation may be modified, in writing, executed by all parties, provided all applicable permits, consents, or approvals have been obtained from the Town.

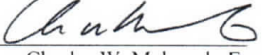
7. The hours of operation at the Property shall be limited to Monday through Saturday, 7:00 a.m. to 6:00 p.m., and shall be further limited to sunrise and sunset on Monday through Saturday, where sunrise occurs later than 7:00 a.m. and/or when sunset occurs earlier than 6:00 p.m. These hours of operation are already existing conditions set forth in the Mining Permit. *See* Mining Permit, p. 2, Condition 1 and Mined Land Use Plan, dated March 22, 2013, pp. 5-6.

8. Water or other approved dust palliatives must be applied to haulageways and other parts of the Property, as often is necessary, to prevent visible dust from leaving the Property.

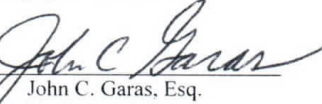
9. The obligations set forth in this Consent Order and Judgment shall run with the land and shall be binding on Petitioner's successors and/or assigns.

Dated: August 31, 2016

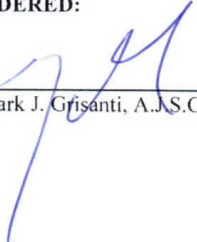
HODGSON RUSS LLP
*Attorneys for the Respondent and the
Town of Lancaster, New York*

By: 
Charles W. Malcomb, Esq.
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202
(716) 856-4000

THE GARAS LAW FIRM, LLP
Attorneys for the Petitioner

By: 
John C. Garas, Esq.
8203 Main Street, Suite 13
Williamsville, New York 14221
(716) 842-6200

SO ORDERED:

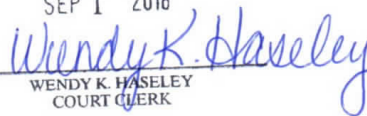


Hon. Mark J. Grisanti, A.J.S.C.

GRANTED

SEP 1 2016

BY


WENDY K. HASELEY
COURT CLERK

Page 6 of 6

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER ABRAHAM, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER WALTER, TO WIT:

WHEREAS, the Town Board is considering granting Upstate Tower, Co., LLC, the option to lease space for the siting of a wireless telecommunications facility consisting of freestanding self-support tower, antennas, an equipment shelter, fenced compound and other appurtenances necessary to operate the facility, on property owned by the Town on a +/- 1.06 acre parcel and known by Tax Map Number 104.08-4-25, located at Mohawk Place, in the Town of Lancaster, Erie County, New York, and

WHEREAS, the Town of Lancaster Municipal Review Committee has reviewed the environmental impact of this project pursuant to SEQR regulations at their meeting on October 3, 2016 and recommended that a Negative Declaration be issued, and

WHEREAS, the Town Board has duly considered the plans for the project, using the Long Environmental Assessment Form, the criteria for determining significance set forth in 6 N.Y.C.R.R. § 617.7(c) of the State Environmental Quality Review Act ("SEQRA") regulations, and such other information deemed appropriate, including the recommendation of the Municipal Review Committee; and

WHEREAS, the Town Board has identified the relevant areas of environmental concern, is fully familiar with the proposed location and the surrounding parcels, has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination; and

WHEREAS, the proposed action has been labeled a "Type I" action under SEQRA.

NOW, THEREFORE,

BE IT RESOLVED by the Town Board of the Town of Lancaster that:

1. Based upon the Town Board's thorough and careful review of the project, Upstate Tower, Co., LLC's application materials, including the Environmental Assessment Form, project plan and all other materials submitted in connection therewith, the project described as a proposal to install a 160' self-support tower and associated telecommunications equipment in proposed 50' X 50' fenced compound, will not result in any significant environmental impacts and hereby issues a negative declaration pursuant to SEQRA for the reasons stated herein.

2. The Town Clerk shall file a copy of the Negative Declaration in the file for the Project.

3. The Town Attorney's Office shall prepare and file a Notice of Determination of Non-Significance with the petitioner and with all required New York State and Erie County agencies, filing a copy of the letter of transmittal.

4. This resolution is effective immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

NEGATIVE DECLARATION
Determination of Non-Significance

Town of Lancaster Town Board

Dated: October 17, 2016

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Lancaster Town Board (the "Town Board"), has reviewed the proposed construction of a new Upstate Tower, Co., LLC 160' self-support tower and associated telecommunications equipment in proposed 50' X 50' fenced compound, on a +/- 1.06 acre parcel. The Town Board has determined the Project will not have a significant adverse environmental impact and that a Draft Environmental Impact Statement will not be prepared.

Name of Action: Mohawk Cell Tower BUF-602B

Location of Action: Mohawk Place (SBL No. 104.08-4-25) Lancaster, New York
14086, Erie County.

SEQR Status: Type I Action.

Description of Action: The construction of a proposed 160' self-support tower and associated telecommunications equipment in proposed 50' X 50' fenced compound.

Reasons Supporting this Determination: Potential environmental impacts associated with the Project were identified in the Environmental Assessment Form. The Town analyzed the project under the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3). As indicated below based on each criterion specified in 6 NYCRR § 617.7(c)(1), the Project will not have a significant adverse impact on the environment.

1. Impact on land - Small Impact.

- The proposed action may involve construction on land where depth to water table is less than 3 feet. The proposed action is in keeping with the official community plans and goals and will have no adverse effects on land use or on the use of natural resources by or in the community.

2. Impact on Geological Features – No impact. There are no important geological features at the project location. Thus there will be no significant adverse impact to geological features.

3. Impacts on Surface Water – Small impact.

- The proposed project site includes a wetlands. If disturbance of the wetland is contemplated, all requisite permits from the New York State Department of Environmental Conservation and/or the U.S. Army Corps. of Engineers is required. The Board determines that disturbance of the wetland at this location will not result in a significant adverse environmental impact.

4. **Impact on Groundwater – No impact.**
5. **Impact on Flooding – No impact.** The project will not result in any drainage or flooding impacts.
6. **Impact on Air, Water, and Noise Levels – No impact.** The project will not result in any adverse change in air quality, water quality, or noise levels, nor in solid waste production.
7. **Impact on Plants and Animals – No impact.** The project site does not represent a significant habitat for wildlife, nor are there any threatened or endangered wildlife that will be negatively impacted. Minor clearing and grading activities will not result in a significant loss of vegetation. The Board determines that there will not be any significant adverse impact on plants and animals resulting from the Project.
8. **Impact on Agricultural Resources – No impact.** The Project site is not located within an agricultural district and is not currently used for agricultural purposes. Therefore, there will not be a significant adverse impact on agricultural resources as the result of this project.
9. **Impact on Aesthetic Resources – No impact.** The Project will not cause significant adverse impacts on aesthetic resources. The tower will be visible from a number of sensitive receptors, but it will not interfere with the use or enjoyment of those sites in a significant way. The project is intended to supply telecommunications services which must be located where necessary to provide such services.
10. **Impact on Historic and Archeological Resources – No impact.**
11. **Impact on Open Space and Recreation – No impact.** The project site is not currently used for open space and recreation; nor will the project create a demand for such. Thus, there will be no significant impacts to open space and recreation.
12. **Impact on Critical Environmental Areas – N/A**
 - The Town of Lancaster has not established a Critical Environmental Area (CEA).
13. **Impact on Transportation – No impact.** There may be some construction related truck traffic, but it will be temporary in nature. The use is not a significant traffic driver. Thus, there will be no significant adverse impacts as the result of the project.
14. **Impact on Energy – No impact.**
15. **Impact on Noise, Odor and Light – No impact.**
16. **Impact on Human Health – No impact.** The project will have no significant adverse impacts on public health. The project will promote the general health safety and welfare by providing access to a system of telecommunications services.
17. **Consistency with Community Plans – Small impact.**
 - The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s). However, the zoning code contemplates appropriately sited telecommunications towers and they are consistent with the comprehensive plan.

18. Consistency with Community Character – No impact. *See* No. 17 above.

For Further Information:

Contact Person:	Kevin E. Loftus, Town Attorney
Address:	Town of Lancaster 21 Central Avenue Lancaster, New York 14086
Telephone Number:	(716) 684-3342

SUSPENDED RESOLUTION:

Supervisor Coleman requested a suspension of the necessary rules for immediate consideration of the following resolution:

UPON A MOTION DULY MADE BY COUNCIL MEMBER RUFFINO, SECONDED BY COUNCIL MEMBER GACZEWSKI AND CARRIED, a suspension was granted.

THE FOLLOWING RESOLUTION WAS OFFERED
BY COUNCIL MEMBER RUFFINO, WHO
MOVED ITS ADOPTION, SECONDED BY
COUNCIL MEMBER GACZEWSKI, TO WIT:

WHEREAS, Beauty Pools Inc., 2000 Commerce Parkway, Lancaster, New York has offered to donate a park bench in memory of James Metz valued at not more than \$2,000.00, to the Youth Bureau , at no charge to the Town, and

WHEREAS, Beauty Pools Inc., will donate the cost of the bench and installation to the Town and will perform the work on Town property under the direction of Highway Superintendent Dan Amatura, and

WHEREAS, after due review and consideration the Town Board has determined that the Youth Bureau can make use of such a gift and it is in the public interest to accept this donation.

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board hereby accepts the donation of a park bench in memory of James Metz, including the cost of installation, from Beauty Pools Inc., Lancaster, New York, valued at not more than \$2,000.00 and to be placed on the grounds at the Town of Lancaster’s Youth Bureau.

The question of the adoption of the following resolution was duly put to a vote on roll call, which resulted as follows:

COUNCIL MEMBER ABRAHAM	VOTED	YES
COUNCIL MEMBER GACZEWSKI	VOTED	YES
COUNCIL MEMBER RUFFINO	VOTED	YES
COUNCIL MEMBER WALTER	VOTED	YES
SUPERVISOR COLEMAN	VOTED	YES

October 17, 2016

COMMUNICATIONS & REPORTS

- 634. Twin District Volunteer Fire Co. to Town Clerk –
Change in roster. Disposition = Resolution 10/17/16**
- 635. James Formato to Supervisor and Town Board –
Notice of change in retirement date from November 4, 2016 to sometime early in 2017. Disposition = Director of Finance & Payroll Supervisor**
- 636. Meals On Wheels to Supervisor –
Request for funds to be allocated to Meals On Wheels from the 2017 Town of Lancaster budget. Disposition = Director of Finance**
- 637. Town Clerk to Various News Media –
Press Release regarding night depository at the entrance to the new addition of Town Hall for payment of taxes. Disposition = Received & Filed**
- 638. Town of Lancaster Office of Emergency Management to Town Clerk –
September 2016 Activities. Disposition = Received & Filed**
- 639. Village of Lancaster Planning Commission to Supervisor –
Notice of Preliminary Site Plan Review for Lancaster Mini Mart, 5424 Broadway (Proposed addition of 713 sq.ft. addition for Tim Horton's), on October 20, 2016 at 7:00PM. Disposition = Received & Filed**
- 640. Village of Depew to Supervisor –
Copy of adopted resolution requesting assistance and funding from NYSDOT, Governor Cuomo and Empire State Development for infrastructure improvements in the Village of Depew. Disposition = Received & Filed**
- 641. Supervisor to Town Board –
Budget message for 2017 Budget Officer's Tentative Budget.
Disposition = Received & Filed**
- 642. Town Attorney to Town Board and Planning Board --
SEQR response from NYS Dept. of Environmental Conservation regarding site plan Royal Car Wash, 6645 Transit Rd., Proj. #2260.
Disposition = Planning Committee**
- 643. Erie County Senior Services to Supervisor –
Information regarding two public hearings for Erie County Senior Service's 2017 delivery plans for older adults in Erie County.
Disposition = Received & Filed**
- 644. Supervisor to Town Board –
Notice of Special Town Board Meeting on November 1, 2016 at 5:30PM.
Disposition = Received & Filed**
- 645. Highway Superintendent to Town Board –
Request for resolution to purchase two new and unused 2017 ODB Truck Mounted Vacuum Debris Collectors. Disposition = Resolution 10/17/16**
- 646. Town Clerk to Various News Media –
Press Release regarding Special Meeting of the Town Board of the Town of Lancaster on November 1, 2016 at 5:30PM. Disposition = Received & Filed**
- 647. Town Clerk to Various News Media –
Press Release regarding observance of Halloween for all Town residents on October 31, 2016 between the hours of 6:00PM and 8:30PM.
Disposition = Received & Filed**

648. Town Attorney to Town Board and Planning Board --
SEQR response from NYS Dept. of Transportation regarding site plan and rezone
Royal Car Wash, 6645 Transit Rd., Proj. #2260.
Disposition = Planning Committee
649. Town Clerk to Town Board –
Town Clerk Monthly Report for September 2016. Disposition = Received & Filed
650. Charter Communications to Supervisor –
Developments affecting Time Warner Cable subscribers in the Western
New York Division. Disposition = Received & Filed
651. Town Attorney to Supervisor, Town Board, Planning Board, Building Inspector,
Town Engineer and Town Clerk –
Notice of SEQR review meeting on Monday, October 17, 2016 at 6:00 PM for
Site Plan Basil Chevy Renovations, 5111 Transit Rd., Proj. #1506, and Rezone &
Site Plan Royal Car Wash, 6645 Transit Rd., Proj. #2260.
Disposition = Received & Filed
652. Town Clerk to Various News Media –
Notice of Special Meeting of Town Board and Planning Board on Monday,
October 17, 2016 at 6:00 PM for the SEQRA review: Site Plan: Joe Basil
Chevrolet Renovations, 5111 Transit Rd. and Rezone & Site Plan Royal Car
Wash, 6645 Transit Rd. Disposition = Received & Filed
653. NYS Dept. of Transportation to Town Clerk –
Response to adopted resolution regarding the Town's request for assistance and
funding for infrastructure improvements along NYS Route 78 in the Village of
Depew. Disposition = Public Safety Committee
654. NYS Public Service Commission to Town Clerk –
Information regarding public statement hearings for proposed increase for
National Fuel Gas Distribution Corp. delivery rates.
Disposition = Received & Filed
655. Code Enforcement Officer Town of Alden to Town Clerk –
Notice of proposed changes and additions to Local Law.
Disposition = Planning Committee
656. Planning Board Chairman to Planning Board, Town Board, Engineering
Consultant, Town Attorney, Highway Superintendent, Building & Zoning
Inspector –
Draft copy of minutes from October 5, 2016 Planning Board meeting.
Disposition = Planning Committee
657. Planning Board to Town Board –
Memo recommending approval of site plan for 2-lot development on the south
side of Seneca Place; conditions noted. Disposition = Planning Committee
658. Planning Board to Town Board –
Memo recommending approval of site plan for Buffalo Suburban Church,
5580 Genesee St.; no conditions. Disposition = Planning Committee
659. Highway Superintendent to Town Board –
Change order for reconstruction of Lincoln Street Culvert approval.
Disposition = Resolution 10/17/16
660. U.S. Senator Charles Schumer to Supervisor –
Information regarding Museums for America Grant Program.
Disposition = Grantmakers Advantage

- 661. Town Attorney to NYSDEC, Erie County DPW, Erie County Health Dept., Division of Sewerage Management, NYSDOT and Erie County DEP – Request for lead agency designation regarding Thomann Asphalt Paving Corp. Addition, 56 Gunnville Rd., Proj. #1637. Disposition = Planning Committee**
- 662. Town Attorney to Town Board and Planning Board – SEQR response from NYSDOT regarding Basil Resale Center Renovation, 5111 Transit Rd., Proj. #1506. Disposition = Planning Committee**
- 663. Town Attorney to Town Board and Planning Board – SEQR response from NYSDEC regarding Basil Resale Center Renovation, 5111 Transit Rd., Proj. #1506. Disposition = Planning Committee**
- 664. Town Attorney to Town Board and Planning Board – Copy of e-mail response from Jess Sudol of Royal Car Wash to NYSDOT regarding their October 5, 2016 SEQR response. Disposition = Planning Committee**
- 665. Association of Towns to Supervisor – Information regarding the 2017 Training School and Annual Meeting in New York City, February 19-22, 2017. Disposition = Received & Filed**
- 666. Park Crew Chief to Supervisor and Town Board – Request for resolution appointing one individual to the position of part-time permanent employee in the Parks, Recreation & Forestry Dept. effective October 18, 2016. Disposition = Resolution 10/17/16**
- 667. Park Crew Chief to Supervisor and Town Board – Request for resolution appointing two individuals to the position of part-time permanent employee in the Parks, Recreation & Forestry Dept. effective October 31, 2016. Disposition = Resolution 10/17/16**
- 668. Executive Director Lancaster Youth Bureau to Supervisor and Town Board – Request for permission to attend Association of New York State Youth Bureau 2016 Annual Youth Development Conference on Oct. 25-26, 2016. Disposition = Received & Filed**
- 669. Police Chief to Town Clerk – Articles and communications. Disposition = Received & Filed**

ADJOURNMENT:

**ON MOTION OF COUNCIL MEMBER ABRAHAM AND SECONDED BY
COUNCIL MEMBER GACZEWSKI AND CARRIED,** the meeting was adjourned in
memory of Sandy Hope at 8:58 P.M.

Signed_____

Diane M. Terranova, Town Clerk